

REMARKS

A. Claims 15-17, 20, and 23-33 Are Definite

Claims 20 and 31-33 stand rejected under 35 U.S.C. § 112, Second Paragraph. The Office asserts that claim 20 fails to further limit claim 15 from which it depends. That is incorrect. Claim 15 recites “approximately 90 degrees”; in contrast, claim 20 recites “90 degrees.” Claim 31 has been amended to address the Office’s concern. The indefiniteness rejections are overcome and should be withdrawn.

B. Claims 15-17, 20, 23, and 26-30 Are Patentable over the Asserted Combination

Claims 15-17, 20, 23, and 26-33 stand rejected as being obvious over JP 10-146846 in view of US 6,416,689 (Keita) or US 5,662,839 (Magne), and further in view of US 4,440,918 (Rice). Applicants respectfully traverse.

The Office has admitted that the *none* of the cited references teaches the claimed “approximately 90 degrees” of rotation set forth in both independent claims 15 and 31. However, the Office asserts that “[g]iven the 180 degree rotation in Rice et al, it is submitted that a 90 degree rotation would have been obvious thereover to ensure uniform polymerization.” Action at p. 2. There are several problems with this assertion. First, it was *180 degrees* in Rice—not *approximately 90 degrees as claimed*—that bears any possible relation to the uniform polymerization. Furthermore, Rice’s rotation was apparently related to achieving a uniform *distribution* of the polymerizable composition within the mold and possible to the application of heat to the mold. There is nothing in Rice that suggests reducing the 180 degree rotation by approximately half *would have the same effect as the 180 degree rotation*. Thus, the Office’s purported rationale for arriving at the claimed rotation is not supported by the *logic* that the Board, applying *KSR*, requires to sustain a rejection.

Moreover, Rice concerns *flexible contact lenses* that are cured under a heat lamp for *one hour*. The Japanese reference concerns a much larger rigid lens, the polymerization of which is

disclosed as taking place in a *heating furnace for 10-15 hours at 100 degrees C*. See paragraph [0020] at page 14/19. The Office has provided no rational explanation for why someone of ordinary skill in the art would apply the non-analogous curing teachings of Rice to those of the Japanese reference for the purpose of addressing a non-existent problem with the curing technique disclosed in the Japanese reference. The Office's rejections do not comport with the common sense approach to obviousness mandated by *KSR*. They are overcome and should be withdrawn.

C. Claims 24 and 25 Are Patentable over the Asserted Combination

Claims 24 and 25 stand rejected as being obvious over JP 10-146846 in view of either Keita or Magne, and Rice, and further in view of US 2004/0021238 (Reed). These claims depend from claim 15, which is patentable over the Japanese reference, Keita or Magne, and Rice for the reasons provided above. Reed fails to cure their deficiency. Accordingly, claims 24 and 25 are patentable over the asserted combination for at least the same reasons, and Applicants therefore respectfully request withdrawal of the rejection.

D. New Claims 34-45 Are Patentable over the Cited References

New claims 34-45 are patentable over the cited references for at least the same reasons as independent claim 15. In addition, new claim 34 recites:

as soon as possible after the retracting, rotating the portion of the mold approximately 90 degrees about a horizontal axis passing through the portion of the mold to reduce or eliminate the possibility that any microbubbles that form within the polymerizable composition after entering the polymerizable composition through the opening in the sealing material and that remain after the instrument is retracted migrate to the central portion of the mold.

None of the cited references—certainly not Rice—teaches or suggests such rotating.

Accordingly, new claims 34-45 should be allowed.

E. Conclusion

The pending claims are in condition for allowance. The Examiner is invited to contact Applicants' representative at the number below with any questions or suggestions.

Respectfully submitted,

/Mark T. Garrett/

Mark T. Garrett
Reg. No. 44,699
Attorney for Applicants

FULBRIGHT & JAWORSKI L.L.P.
600 Congress Avenue, Suite 2400
Austin, Texas 78701
(512) 536-3083

Date: July 14, 2009